Testimony Submitted by Kevin Warren, President and CEO
Texas Health Care Association
Interim Charge #5:
House Human Services Committee
September 25, 2020

Mr. Chairman and members: Thank you for allowing me this opportunity to submit testimony on the committee's interim charge #5 regarding *the adequacy of Medicaid reimbursements for nursing facilities, including existing incentive-based payment models and the Quality Incentive Payment Program.*

On behalf of the Texas Health Care Association (THCA), representing skilled nursing and post-acute care providers in Texas, we appreciate the continued opportunity to work with the House Human Services Committee on behalf of the long term care profession. We remain committed to working with the Committee and its members on important issues such as Texas Medicaid, Regulatory and Managed Care to find efficiencies, improve business practices and improve the overall care provided to the over 57,000 residents living in skilled nursing facilities across Texas whose care is paid for by Medicaid.

The impact of COVID19 on the long term care profession has been far reaching and its negative effect on the elderly has placed long term care at the epicenter of the pandemic. With restrictions in place at federal and state levels, ongoing mandatory testing requirements and infection prevention and control guidance in place to protect the health and safety of residents and staff, the long term care profession has faced the realization that operations and approaches to providing patient care will be changed for years to come.

Texas Medicaid in Nursing Homes

Skilled nursing facilities in Texas serve a sicker population in 2019 than ever before. Data suggests the goal of keeping patients in the community under Star+Plus is working. As Texans age, they are staying in the community longer, while the performance on "discharge to community" measures by skilled nursing facilities have remained steady. When residents are in need of nursing home care, they are older and require 24-hour care to manage new diagnoses, co-morbidities or treatments that are unable to be delivered in the community. Today, almost 70% of all nursing facility patient days are paid for through the Medicaid program (*figure 1*). As providers of this care, our members find themselves taking

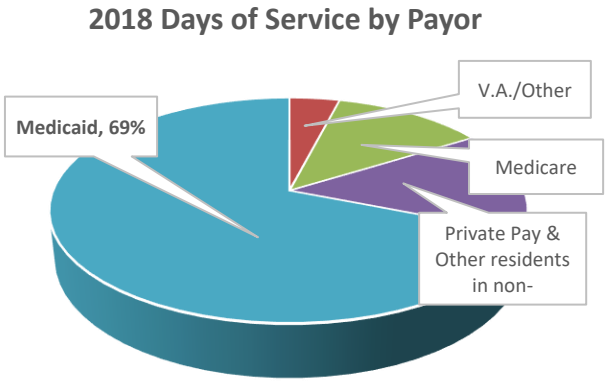

Figure 1 Source: 2018 Cost Report Data

on increased allowable care expenses that are not reimbursed.

For example, the Medicaid Shortfall (*figure 2*) grew by 26% in 2015 over 2014 and then again 30% in 2017 over 2016. The median shortfall since 1994 has been 19%. Further, while the Medicaid shortfall has widened year over year, rate increases from the Legislature have been absent or minimal. While there was a rate increase appropriated in 2009 by the Legislature, it was followed by consecutive rate reductions. While rate increases were provided to aid in the shift into Medicaid managed care in 2013, the six percent rate increase was offset by an eight percent rate increase in providers' costs to process and administer the program across the various MCOs. In addition, there is a noteworthy increase in the length of time for claims to be paid (i.e. accounts receivables), and our members' cost of care and resource management has continued to escalate. Each year the Medicaid rate stays flat, it is the equivalent of a rate cut.

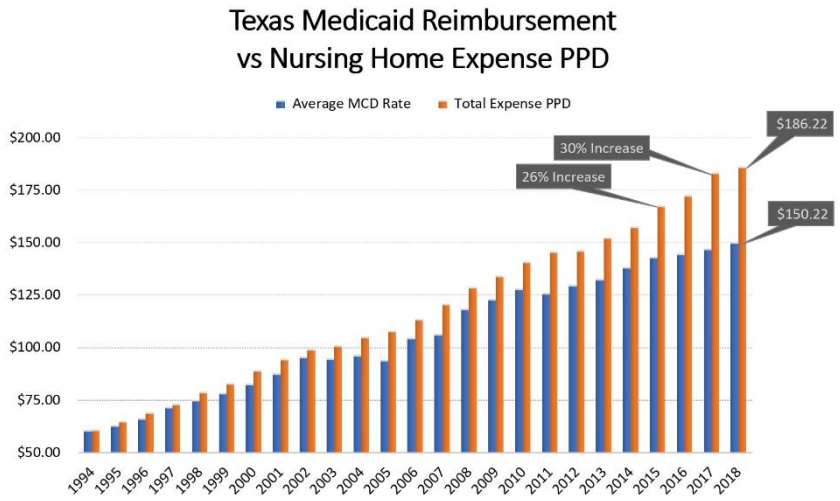

Figure 2 Source: 2018 Cost Report Data

Quality Incentive Payment Program

One of the most significant value-based payment programs in Texas, and one that impacts the lives of thousands of residents, families, and staff in nursing facilities across Texas is the Quality Incentive Payment Program (QIPP). Notably, no general revenue is used to fund QIPP. Over the course of the past three years, we have continued to see an expansion in the number of nursing facility providers, both public and private, participating in QIPP. HHSC's efforts to include stakeholders in its development and design over this period to make the program available to additional providers has benefitted both urban and rural communities. QIPP Year 4, effective September 1, 2020 expanded both financially and in the number of participating nursing facilities to over 860 nursing facilities (both public and private) for inclusion in the program, demonstrating the state's commitment to value based payment programs and incentivizing care improvement. However, even with this significant growth, there remains almost 350 nursing facilities across the state not benefitting under the current program.

While we support the continued growth of the program, it is important to ensure greater predictability in cost coverage for services provided to the residents residing in Texas nursing facilities. We believe the QIPP program is a significant complement to the Texas Medicaid rate methodology; however, without greater predictability in cost coverage, we limit the ability for more significant investment in improving nursing home care; particularly in light of the expense and revenue impact that has resulted as a result of COVID-19.

The COVID Impact

Prior to 2020 and the impact of COVID19, Texas nursing homes were already facing financial concerns given the low Medicaid reimbursement impacting two-thirds of their patient population. In 2020, the impact of COVID19 on the financial solvency of the long term care profession continues to be threatened and further exacerbated these concerns. Since the Centers for Medicare & Medicaid Services (CMS) released its initial guidance regarding infection control and prevention expectations (including screening requirements, personal protective equipment, staffing restrictions) and now the recent mandates for staff and resident testing and expanding visitation guidelines, the costs to care for the nursing home population have increase significantly. As an example, early projections indicated an estimated total of $400,000 per day in staffing related costs just to cover screening and communal dining modifications for the over 1200 Texas facilities. This does not include the additional and continued costs of medical supplies, paid leave, overtime, and other staffing costs.

As efforts to prevent and mitigate the spread of COVID-19 in Texas nursing homes, the following costs remain significant and ongoing:

- Workforce Labor and Overtime Costs (including sick leave and potential 14 day quarantine in many cases);
- Personal Protective Equipment;
- Staff and Visitor Screenings required for all individuals entering the facility each time they arrive;
- Regular testing of staff and residents based upon county positivity rates or the identification of a COVID+ resident or staff member in the facility; and,
- Any new guidance and costs associated with the new visitation rules compliance

The nursing home profession in Texas is very grateful for the federal financial assistance that has been provided in 2020 as well as the approval of the current temporary COVID-19 add-on rate for Medicaid residents in Texas nursing homes. The temporary add-on is set to expire at the end of the public health emergency (PHE). Nursing facilities will continue to incur ongoing costs and expenses to acquire staffing, PPE and testing supplies. Unfortunately, there are no additional resources appropriated at the federal or state level to cover these ongoing costs into 2021.

In communicating with members of the association regarding expenses related to COVID, we have attempted to quantify the impact, since March 2020. It is important to note there can be significant variation in COVID related expenses. A facility that had a large penetration of COVID within the facility would likely have significantly more COVID costs than a facility that had none or very little. In addition, the availability of staffing, necessary use of agency staff, supply availability of staff in a given community, quantity and availability of testing, PPE resources and other factors are all contributors to current and ongoing expenses.

Initial financial data suggests that median additional expenses have increased to over $50,000 per facility per month thru August 2020. One provider reported a 40% overall increase in expenses since March 2020. It is important to note, these costs do not include the costs that began in September due to mandatory testing of staff and residents. In addition, providers have reported decline in census over this same period of time of 10-15% having a direct effect on patient revenues.

Recommendations

1. To provide a more predictable cost coverage reimbursement, we recommend that an equivalent amount to the current COVID temporary add-on rate be added to the Medicaid base rate once the Public Health Emergency (PHE) ends. The temporary add-on is tied to the existence of the PHE; however, based upon additional testing guidance, PPE requirements, and the additional staffing shortage that has resulted from the COVID19 pandemic, the added cost of meeting both federal and state requirements will continue. In addition, due to local ordinances, visitation restrictions and the limited number of discharges from local hospitals, nursing facilities have incurred significant reductions in revenue and census, while fixed overhead costs remain.

2. While HHSC currently works with the Payment Methodology Advisory Committee to recommend changes to the Medicaid reimbursement model, we ask that HHSC be required to create options to address the structural integrity of the Medicaid program and ensure that providers are not negatively impacted financially with the transition to any new Medicaid methodology. Based on our current survey of members who operate in other states, we are significantly concerned with any methodology that takes from one provider and gives to another without a transitional revenue protection.

3. Our current reimbursement structure pays for the physical, acute-care needs of patients, like congestive heart failure, but not cognitive impairment or behavioral needs. We ask for the development of a per diem add-on for patients who qualify with impaired cognition and the behavioral problems categories, or have been diagnosed with Alzheimer's disease or dementia, classified in the reduced physical functions or in behavioral problems categories.

Thank you for your attention to long term care. We look forward to working with the Committee as you attempt to make long term care in Texas the best it can be.